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HOUSE BILL 652

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Al Park

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; INCREASING THE PENALTY FOR HOMICIDE BY VEHICLE OR GREAT BODILY HARM BY VEHICLE TO A SECOND DEGREE FELONY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-8-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY VEHICLE.--

A. Homicide by vehicle is the killing of a human being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of a human being, to the extent defined in Section 30-1-12 NMSA 1978, in the unlawful operation of a motor vehicle.

C. A person who commits homicide by vehicle or

underscored material = new
[bracketed material] = delete

1 great bodily harm by vehicle while under the influence of
2 intoxicating liquor or while under the influence of any drug
3 [~~or~~] is guilty of a second degree felony and shall be sentenced
4 pursuant to the provisions of Section 31-18-15 NMSA 1978.

5 D. A person who commits homicide by vehicle or
6 great bodily harm by vehicle while violating Section 66-8-113
7 NMSA 1978 is guilty of a third degree felony and shall be
8 sentenced pursuant to the provisions of Section 31-18-15 NMSA
9 1978, provided that violation of speeding laws as set forth in
10 the Motor Vehicle Code shall not per se be a basis for
11 violation of Section 66-8-113 NMSA 1978.

12 [~~D.~~] E. A person who commits homicide by vehicle or
13 great bodily harm by vehicle while under the influence of
14 intoxicating liquor or while under the influence of any drug,
15 as provided in Subsection C of this section, and who has
16 incurred a prior DWI conviction within ten years of the
17 occurrence for which he is being sentenced under this section
18 shall have his basic sentence increased by four years for each
19 prior DWI conviction.

20 [~~E.~~] F. For the purposes of this section, "prior
21 DWI conviction" means:

22 (1) a prior conviction under Section 66-8-102
23 NMSA 1978; or

24 (2) a prior conviction in New Mexico or any
25 other jurisdiction, territory or possession of the United

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1 States, including a tribal jurisdiction, when the criminal act
2 is driving under the influence of alcohol or drugs.

3 ~~[F-]~~ G. A person who willfully operates a motor
4 vehicle in violation of Subsection C of Section 30-22-1 NMSA
5 1978 and directly or indirectly causes the death of or great
6 bodily harm to a human being is guilty of a third degree felony
7 and shall be sentenced pursuant to the provisions of Section
8 31-18-15 NMSA 1978."

9 Section 2. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2005.